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EXAMINER				
ARAQUE JR, GERARDO				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/757,460

Applicant(s)

TAKATAMA ET AL.

Examiner

Gerardo Araque Jr.

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/27/08, 10/20/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date 7/3/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendments submitted on **5/27/08** and **10/20/08** have been considered and entered.

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Information Disclosure Statement

2. The Examiner notes that the applicant has provided **two NPL documents** that were not properly cited in the IDS. Specifically, the first NPL document appears to be a Japanese document that has not been translated while the second NPL document is a document provided in English, but is not properly identified to indicate its relevance.
3. The information disclosure statement filed **7/3/08** fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Specifically, JP 2002/509631 has not been provided.

Claim Rejections - 35 USC § 112, first paragraph

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, the applicant discloses, "...the selected preparation place is selected as being with a predetermined distance of the selected transfer place." The Examiner requests for the applicant to provide specific locations in the specification if there is support for this limitation.

Claim Rejections - 35 USC § 112, second paragraph

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1 – 18** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

9. **Claims 2 – 18** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. These claims are omnibus type claims.

In regards to **claims 2 – 12**, the applicant is claiming various "means plus function" language, however, it is uncertain as to what the "means plus function" is directed to. For example, **Claim 5** discloses at least, " a transfer information transmission means for inputting the transfer information and transmitting the inputted transfer information...". It is asserted that this limitation can be read as the following:

a transfer information transmission, which appears to be a step wherein transfer information is being transmitted and wherein the "means for inputting"; or

"means for inputting and transmitting" would be a computer with a network adapter, which would not necessarily be the same device that is doing the transfer information transmission.

The Examiner asserts that a "transfer information transmission means" would not include the step of inputting information.

Again, the Examiner stresses that this is only one example out of the provided claims.

Further still, the Examiner is also uncertain on the function of the preparation place and transfer place (only to name a few). Initially, it was understood that the preparation place is where the order is prepared and that the transfer place is where the order is transferred to the orderer. However, later limitations to the transfer place and preparation place appear to claim something different, i.e. acquiring position information (just to name a few). Are the transfer place and preparation place working together and acquiring position information, are both acquiring position information independently (if so, are they relaying the information to one another), is there a separate system that is

acquiring the information and relaying the information to the transfer place and preparation place? Are there multiple systems acquiring this information and is each assigned to the transfer place and preparation place separately? Again, applicant is advised to review **all claims** for grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. **Claims 1 – 7, 10 – 13, 16, and 19** are rejected under 35 U.S.C. 102(b) as being anticipated by **Hall et al. (US Patent 6,026,375)**.

12. In regards to **claims 1 and 19**, **Hall** discloses a drive through system comprising: an ordering system mounted on moving means on which an order is placed (**see at least Col. 5 Lines 44 - 47**);

an acceptance center system which accepts the order from the ordering system (**Col. 7 Lines 52 - 55**);

a preparation system installed in each of a plurality of preparation places where a merchandise is prepared and stored (**inherently included in drive-thru services, such as McDonald's wherein although it is in one location the one location has several places for preparing specific types of meals and a place for each step in the preparation of the meal; see also at least Col. 2 Lines 49 – 61 wherein each location from the plurality of locations contains a preparation system**); and

a transfer system installed in each of a plurality of a transfer places where the merchandise prepared in a selected preparation place of the plurality of preparation place is transferred to an orderer, the systems being connected to one another via a network **(inherently included in drive-thru services, such as McDonald's; see also Col. 1 Lines 47 – 49 moreover, although it is in one location the one location has several places for transferring specific types of meals and a specific place to transfer the meal depending on whether it is an eat in meal (which contains, for example, a separate cash register for transferring a meal to a customer) or drive thru meal as well as a separate transfer place wherein the meal is transferred from one location to another depending on what step of the preparation the meal is at; see also at least Col. 2 Lines 49 – 61 wherein each location from the plurality of locations contains a transfer system system),**

wherein at least one of the preparation system of the selected preparation place and the transfer system of a selected transfer system periodically acquires position information indicating a present position of the orderer from the ordering system from when ordering information indicating that the orderer has placed an order for the merchandise is received from the ordering system until information indicating that transfer of the merchandise to the orderer has been completed is received from the ordering system, and determines the orderer's present position **(see at least Col. 6 Lines 21 - 24), and**

the selected preparation place is placed as being within a predetermined distance of the selected transfer place **(Obviously included in that any two locations**

have a predetermined distance between them; See at least Col. 2 Lines 49 – 61; Col. 4 Lines 19 – 32 wherein a selected preparation place/transfer is selected by determining whether they are capable of fulfilling the order).

13. In regards to **claim 2**, Hall discloses a drive through system comprising:

an ordering system mounted on moving means on which an order is placed (**see at least Col. 5 Lines 44 - 47**);

an acceptance center system which accepts an order from the ordering system (**Col. 7 Lines 52 - 55**);

a preparation system installed in each of a plurality of preparation places where a merchandise is prepared and stored (**inherently included in drive-thru services, such as McDonald's wherein although it is in one location the one location has several places for preparing specific types of meals and a place for each step in the preparation of the meal; see also at least Col. 2 Lines 49 – 61 wherein each location from the plurality of locations contains a preparation system**); and

a transfer system installed in each of a plurality of transfer places where the merchandise prepared in one of the plurality of preparation places is transferred to an orderer, the systems being connected to one another via a network (**inherently included in drive-thru services, such as McDonald's; see also Col. 1 Lines 47 – 49 moreover, although it is in one location the one location has several places for transferring specific types of meals and a specific place to transfer the meal depending on whether it is an eat in meal (which contains, for example, a separate cash register for transferring a meal to a customer) or drive thru meal as**

well as a separate transfer place wherein the meal is transferred from one location to another depending on what step of the preparation the meal is at; see also at least Col. 2 Lines 49 – 61 wherein each location from the plurality of locations contains a transfer system),

the ordering system comprising:

a position information processing means for receiving a request from a requestor via a mobile network for position information, acquiring the position information from a global positioning system unit and transmitting the position information via the mobile network to the requestor (see at least Col. 5 Lines 60 – 65; 6 Lines 21 – 24); and

a ordering means for transmitting ordering information indicating that the merchandise is ordered to the acceptance center system (see at least Col. 5 Lines 44 – 47; Col. 7 Lines 52 - 55),

the acceptance center system comprising:

a preparation place and transfer place determination means for determining the preparation place where the ordered merchandise is prepared in accordance with the ordering information and the transfer place where the merchandise is transferred upon receiving the ordering information from the ordering system (inherently included in drive-thru services, such as McDonald's; see also Col. 1 Lines 47 - 49);

an ordering information transfer means for transmitting the ordering information to the transfer system and the preparation system in the preparation

place and the transfer place determined by the preparation place and transfer place determination means (see at least Col. 7 Lines 52 - 55); and

a position acquiring stop command means for transmitting a command for stopping the acquiring of the position information to the transfer system and the preparation system upon receiving transfer information indicating that the orderer has received the merchandise ordered in accordance with the ordering information from the preparation system (see at least Col. 8 Lines 1 - 16; Col. 8 - 9 Lines 63 - 4; Col. 9 Lines 51 - 56; Col. 10 Lines 6 - 12; Col. 9 Lines 51 - 56).

14. In regards to **claim 3**, Hall discloses wherein the acceptance center system comprises:

a preparation place and transfer place position information storage means for storing one or more pieces of preparation place and transfer place position information indicating locations of the determined preparation place and the determined transfer place (see at least Col. 6 Lines 6 - 11), and

the preparation place and transfer place determination means transmits a request for acquiring the position information to the ordering system to acquire the position information upon receiving the ordering information from the ordering system, refers to the preparation place and transfer place position information so that the designated merchandise can be prepared based from the acquired ordering information and position information, extracts a preparation place of the plurality of preparation places positioned in a predetermined distance from the orderer's present position, and

extracts a transfer place of the plurality of transfer places positioned in a predetermined distance from the extracted preparation place **(see at least Col. 6 Lines 21 – 25; moreover, and as discussed above, any two locations have a predetermined distance from one another and Hall discloses that locations for having a finished order for a customer is determined by determining the location of the customer as well as determining which location is capable of providing a finished product to the customer).**

15. In regards to **claim 4**, Hall discloses wherein the preparation place system comprises:

preparation place position acquiring means for periodically transmitting the request for acquiring the position information to the ordering system from when the ordering information is received from the acceptance center system until the acquisition stop command is received to acquire the position information **(Col. 6 Lines 21 – 25; Col. 9 Col 51 - 56).**

16. In regards to **claim 5**, Hall discloses wherein the transfer place system comprises:

a transfer place position acquiring means for periodically transmitting the request for acquiring the position information to the ordering system from when the ordering information is received from the acceptance center system until the acquisition stop command is received to acquire the position information **(Col. 6 Lines 21 - 25; Col. 8 Lines 1 - 16);** and

a transfer information transmission means for inputting the transfer information and transmitting the inputted transfer information to the acceptance center system upon completion of transfer of the merchandise to the orderer (**see at least Col. 7 Lines 52 – 55; Col. 8 Lines 1 - 16**).

17. In regards to **claim 6**, Hall discloses wherein the transfer system comprises:

a trouble occurrence notification means for monitoring a movement path of the orderer based on the position information acquired by the transfer place position acquiring means and transmitting trouble occurrence information indicating that a trouble has occurred in transferring the merchandise to the acceptance center system, when a distance between the orderer's present position and the extracted transfer place, where a time when a merchandise transfer is scheduled increases with an elapse of time (**as best understood see at least Col. 8 Lines 1 – 16; Col. 8 – 9 Lines 63 – 4; Col. 9 Lines 51 – 56; Col. 10 Lines 6 - 12**).

18. In regards to **claim 7**, Hall discloses wherein the preparation place and transfer place determination means newly acquires the position information from the ordering system, and extracts the preparation place and the transfer place again, when the acceptance center system receives the trouble occurrence information (**as best understood see at least Col. 8 Lines 1 – 16; Col. 8 – 9 Lines 63 – 4; Col. 9 Lines 51 – 56; Col. 10 Lines 6 – 12**).

19. In regards to **claim 10**, Hall discloses wherein the ordering system comprises destination information transmission means for transmitting destination information indicating a destination of movement by the orderer to the acceptance center system

(as best understood see at least Col. 8 Lines 1 – 16; Col. 8 – 9 Lines 63 – 4; Col. 9 Lines 51 – 56; Col. 10 Lines 6 - 12),

the acceptance center system comprises movement path estimating means for estimating a future movement path of the orderer based on the received position information and destination information upon receiving the position information and destination information from the ordering system **(see at least Col. 9 Lines 34 – 50, specifically Lines 43 - 47), and**

the preparation place and transfer place determination means extracts the preparation place and the determined transfer place within a predetermined distance from the estimated movement path **(see at least Col. 9 Lines 34 – 50).**

20. In regards to **claim 11**, Hall discloses wherein the preparation system comprises preparation place operation situation notification means for transmitting information indicating an operation situation of the preparation place to the acceptance center system **(as best understood Col. 9 Lines 34 - 50),**

the transfer system comprises transfer place operation situation notification means for transmitting information indicating the operation situation of the determined transfer place to the acceptance center system **(as best understood Col. 9 Lines 34 - 50), and**

the preparation place and transfer place determination means extracts the preparation place and the transfer place low in operation ratio based on the operation situation upon receiving the information indicating the operation situations of the

extracted preparation place and the extracted transfer place **(as best understood Col.**

9 Lines 34 – 50, see also Col. 9 Lines 19 - 32).

21. In regards to **claim 12**, Hall discloses wherein the ordering system comprises permission period input means for inputting a position acquiring permission period indicating a period in which the position information is permitted to be transmitted by the position information processing means **(Col. 6 Lines 21 – 43, wherein the updating of the position is being updated periodically)**, and

the position information transmittance means transmits the position information in the limited position acquiring permission period inputted by the permission period input means **(Col. 6 Lines 21 - 43).**

22. In regards to **claim 13**, Hall discloses a merchandise order receiving method using a drive through system comprising:

an ordering system mounted on moving means on which an order is placed **(see at least Col. 5 Lines 44 - 47);**

an acceptance center system which accepts an order from the ordering system **(Col. 7 Lines 52 - 55);**

a preparation system installed in each of a plurality of preparation places where a merchandise is prepared and stored **(inherently included in drive-thru services, such as McDonald's wherein although it is in one location the one location has several places for preparing specific types of meals and a place for each step in the preparation of the meal; see also at least Col. 2 Lines 49 – 61 wherein each location from the plurality of locations contains a preparation system);** and

a transfer system installed in each of a plurality of transfer places where the merchandise prepared in one of the preparation places is transferred to an orderer, the systems being connected to one another via a network **(inherently included in drive-thru services, such as McDonald's; see also Col. 1 Lines 47 – 49 moreover, although it is in one location the one location has several places for transferring specific types of meals and a specific place to transfer the meal depending on whether it is an eat in meal (which contains, for example, a separate cash register for transferring a meal to a customer) or drive thru meal as well as a separate transfer place wherein the meal is transferred from one location to another depending on what step of the preparation the meal is at; see also at least Col. 2 Lines 49 – 61 wherein each location from the plurality of locations contains a transfer system system),**

the method comprising:

an ordering step of transmitting ordering information indicating the ordering of the merchandise to the acceptance center system by the ordering system **(see at least Col. 5 Lines 44 – 47; Col. 7 Lines 52 - 55);**

a position information transmission step of transmitting position information indicating an acquired present position of the orderer by the ordering system **(see at least Col. 6 Lines 21 - 24);**

a preparation place and transfer place determination step of determining a preparation place of the plurality of preparation places where the merchandise ordered in accordance with the ordering information is prepared and a transfer place of the

plurality of transfer places where the merchandise is transferred based on the ordering information and the position information received from the ordering system by the acceptance center system **(inherently included in drive-thru services, such as McDonald's; see also at least Col. 1 Lines 47 – 49; Col. 7 Lines 52 - 67);**

an ordering information transmission step of transmitting the ordering information to the transfer place system and the preparation system in the determined preparation place and the determined transfer place by the acceptance center system **(see at least Col. 7 Lines 52 - 55);**

a preparation place position acquiring step of periodically transmitting a request for acquiring the position information to the ordering system to acquire the position information upon receiving the ordering information by the preparation system **(as best understood see at least Col. 6 Lines 21 – 24; see also Col.7 Lines 52 - 55);** and

a transfer place position acquiring step of periodically transmitting a request for acquiring the position information to the ordering system to acquire the position information upon receiving the ordering information by the transfer system **(as best understood see at least Col. 6 Lines 21 – 24; see also Col.7 Lines 52 - 55).**

23. In regards to **claim 16**, Hall discloses a program for allowing a computer to execute:

an ordering information input process of inputting ordering information indicating a merchandise ordering from an orderer **(see at least Col. 5 Lines 44 - 47);**

a position information input process of inputting position information indicating a present position of the orderer **(Col. 6 Lines 21 - 24);**

a preparation place and transfer place determination process of determining a preparation place of a plurality of preparation places where a merchandise ordered in accordance with the ordering information is prepared and selected and a transfer place of a plurality of transfer places where the merchandise is transferred based on the inputted ordering information and position information (**Col. 9 Lines 34 – 51**); and

an ordering information output process of outputting the ordering information to information processing devices installed in the determined preparation place and the determined transfer place and permitting the acquisition of the position information (**as best understood Col. 9 Lines 52 - 62**).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. **Claim 15 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hall et al. (US Patent 6,026,375)**.

26. In regards to **claims 15 and 18**, Hall discloses further comprising:

a transfer information transmission step of inputting transfer information indicating that the orderer has received the ordered merchandise by the ordering information to transmit the inputted transfer information to the acceptance center system upon completion of the transfer of the merchandise to the orderer by the transfer system (**obviously included**).

However, **Hall** fails to explicitly disclose:

a position acquiring stop command step of transmitting a command for stopping the acquiring of the position information to the transfer system and the preparation system upon receiving the transfer information by the acceptance center system.

Hall, however, does disclose the function of incorporating a stop command (**see at least Col. 9 Lines 51 - 56**). Although, **Hall** does not disclose that the stop command is associated to the order being received by the orderer, it is asserted that it would have been obvious to one having ordinary skill in the art that there is no need to continue monitoring the status of the orderer once the order has been received and completed. The Examiner asserts that it would be common sense to stop the monitoring of the orderer's position since it would consume necessary storage space on the system and would result in high expenses to store unnecessary data.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** to provide a stop command on the acquisition of the position of the orderer once an order has been completed and received by the orderer in order to prevent unnecessary usage of the system.

27. **Claims 8 – 9, 14, and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hall et al. (US Patent 6,026,375)** in view of **Ikeda et al. (US PGPub 2002/0041240 A1)**.

28. In regards to **claim 8**, **Hall** discloses a transfer place system which receives position information, as discussed above.

However, **Hall** fails to disclose:

a traffic information management server which is connected to the network to store traffic information of a road,

the transfer system comprising:

a transfer place traffic information acquisition means for transferring a request for acquiring the traffic information to the traffic information management server to acquire the traffic information; and

a transfer place arrival time estimating means for estimating a time at which the orderer reaches the extracted transfer place based on the acquired position information and traffic information.

Ikeda, however, discloses a status notification system which includes a GPS and traffic information receiving antenna (**see at least Page 2 – 3 ¶ 35**). **Ikeda** further discloses that the traffic system gathers information relating to traffic congestion status and determines the ETA based on the congestion status (**see at least Page 3 ¶ 39, 41**). The Examiner asserts that it would have been obvious to one having ordinary skill in the art to look upon the teachings of **Ikeda** and combine the teachings with those of **Hall** in order to provide a more accurate means of determining when an orderer is estimated to arrive to pick up an order. Further still, the combination of **Ikeda** and **Hall** would further provide an effective method of when to prepare an order in order to prevent order backups and unnecessarily occupying valuable storage space.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** in view of the teachings of **Ikeda** to provide a

traffic monitoring system in conjunction with the transfer place system in order to provide a more accurate method on determining the ETA of an orderer.

29. In regards to **claim 9**, **Hall** discloses a preparation place system which receives position information, as discussed above.

However, **Hall** fails to disclose:

a preparation place traffic information acquisition means for transmitting a request for acquiring the traffic information to the traffic information management server to acquire the traffic information; and

a preparation place arrival time estimating means for estimating a time at which the orderer reaches the extracted transfer place based on the acquired position information and traffic information.

Ikeda, however, discloses a status notification system which includes a GPS and traffic information receiving antenna (**see at least Page 2 – 3 ¶ 35**). **Ikeda** further discloses that the traffic system gathers information relating to traffic congestion status and determines the ETA based on the congestion status (**see at least Page 3 ¶ 39, 41**). The Examiner asserts that it would have been obvious to one having ordinary skill in the art to look upon the teachings of **Ikeda** and combine the teachings with those of **Hall** in order to provide a more accurate means of determining when an orderer is estimated to arrive to pick up an order. Further still, the combination of **Ikeda** and **Hall** would further provide an effective method of when to prepare an order in order to prevent order backups and unnecessarily occupying valuable storage space.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** in view of the teachings of **Ikeda** to provide a traffic monitoring system in conjunction with the preparation place system in order to provide a more accurate method on determining the ETA of an orderer.

30. In regards to **claim 14**, **Hall** discloses further comprising:

a trouble occurrence notification step of monitoring a movement path of the orderer based on the acquired position information and transmitting trouble occurrence information indicating that a trouble has occurred in transferring the merchandise to the acceptance center system, when the transfer place system recognizes that a distance between the orderer's present position and the transfer place where a time when a merchandise transfer is scheduled increases with an elapse of time (**as best understood see at least Col. 8 Lines 1 – 16; Col. 8 – 9 Lines 63 – 4; Col. 9 Lines 51 – 56; Col. 10 Lines 6 – 12**).

However, **Hall** fails to disclose:

a preparation place and transfer place determination step of newly acquiring the position information from the ordering system to re-determine and a preparation place of the plurality of preparation places and a transfer place of the plurality of transfer places, upon the acceptance center system receives the trouble occurrence information.

Ikeda, however, discloses a status notification system which includes a GPS and traffic information receiving antenna (**see at least Page 2 – 3 ¶ 35**). **Ikeda** further discloses that the traffic system gathers information relating to traffic congestion status and determines the ETA based on the congestion status (**see at least Page 3 ¶ 39, 41**).

The Examiner asserts that it would have been obvious to one having ordinary skill in the art to look upon the teachings of **Ikeda** and combine the teachings with those of **Hall** in order to provide a more accurate means of determining when an orderer is estimated to arrive to pick up an order. Further still, the combination of **Ikeda** and **Hall** would further provide an effective method of when to prepare an order in order to prevent order backups and unnecessarily occupying valuable storage space.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** in view of the teachings of **Ikeda** to provide a traffic monitoring system in conjunction with the preparation place/transfer place in order to provide a more accurate method on determining the ETA of an orderer.

31. In regards to **claim 17**, **Hall** discloses a preparation place and transfer place system which receives position information, as discussed above.

However, **Hall** fails to disclose:

a trouble occurrence notification input process of inputting trouble occurrence information indicating that a distance between the orderer's present position and the determined transfer place where the merchandise transfer is scheduled increases with an elapse of time and a trouble has occurred in merchandise transfer; and

a preparation place and transfer place re-determination process of newly inputting the position information to determine a preparation place of a plurality of preparation places and the transfer place of a plurality of transfer places again, when the trouble occurrence information is inputted.

Ikeda, however, discloses a status notification system which includes a GPS and traffic information receiving antenna (see at least Page 2 – 3 ¶ 35). **Ikeda** further discloses that the traffic system gathers information relating to traffic congestion status and determines the ETA based on the congestion status (see at least Page 3 ¶ 39, 41). The Examiner asserts that it would have been obvious to one having ordinary skill in the art to look upon the teachings of **Ikeda** and combine the teachings with those of **Hall** in order to provide a more accurate means of determining when an orderer is estimated to arrive to pick up an order. Further still, the combination of **Ikeda** and **Hall** would further provide an effective method of when to prepare an order in order to prevent order backups and unnecessarily occupying valuable storage space.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** in view of the teachings of **Ikeda** to provide a traffic monitoring system in conjunction with the preparation place/transfer place in order to provide a more accurate method on determining the ETA of an orderer.

Response to Arguments

32. Applicant's arguments filed 5/27/08 and 10/20/08 have been fully considered but they are not persuasive.

Rejection under 35 USC 112, second paragraph

Rejections under 35 USC 112, second paragraph, have not all been withdrawn due the applicant's failure to properly amend the claims. Specifically, the Examiner asserts that a non-compliant/non-response correspondence was mailed to the applicant indicating that that the means plus function language is improper. The applicant only amended

part of claim 2 and failed to correct the other claims that were mentioned in the Non-Final Office Action. Again, the Examiner will provide an example. **Claim 5** discloses at least, "a transfer information transmission means for inputting the transfer information and transmitting the inputted transfer information...". It is asserted that this limitation can be read as the following:

a transfer information transmission, which appears to be a step wherein transfer information is being transmitted and wherein the "means for inputting"; or

"means for inputting and transmitting" would be a computer with a network adapter, which would not necessarily be the same device that is doing the transfer information transmission.

The Examiner asserts that a "transfer information transmission means" would not include the step of inputting information.

Again, the Examiner stresses that this is only one example out of the provided claims. The Examiner asserts that the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Rejection under 35 USC 102 and 103

33. The Examiner asserts that the applicant's argument pertain to the newly amended limitations of the claims. Consequently, the arguments are considered to be moot since they were not previously considered, but have now been addressed above.

Conclusion

34. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. A./
Examiner, Art Unit 3689
2/10/09

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689
February 12, 2009